

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

December 19, 2002

DIVISION ONE

B152287 George Weinbaum, et. al. (Not for Publication)
v.
Goldfarb, Whitman & Cohen, et. al.

The summary judgment is reversed, and the cause is remanded to the trial court with directions to enter new orders (1) denying GWC's motion for summary judgment, (2) granting GWC's motion summary adjudication of the first, second, third, and fourth causes of action, and (3) denying GWC's motion for summary adjudication of the fifth, sixth, and seventh causes of action. The parties are to pay their own costs on appeal. The parties are to pay their own costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Mallano, J.

B156213 Michael Kekel (Not for Publication)
v.
Manson Constructions Company

The order is affirmed. Manson Construction is awarded its costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Mallano, J.

B156324 People (Not for Publication)
v.
Darrell Dwayne Martin

The judgment is affirmed.

Mallano, J.

We concur: Ortega, Acting P.J.
Vogel (Miriam A.), J.

December 19, 2002 (Continued)

DIVISION ONE (Continued)

B154258 People (Not for Publication)
v.
Noah O.

The order under review is affirmed.

Mallano, J.

We concur: Ortega, Acting P.J.
Vogel (Miriam A.), J.

B154160 People (Not for Publication)
v.
Miguel Angel Perez

The judgment is modified pursuant to Penal Code section 654 to stay imposition of sentence on counts 2 (assault with a semiautomatic firearm) and 3 (attempted robbery), and the trial court is directed to forward a copy of an amended abstract of judgment reflecting the modification to the Department of Corrections. As modified, the judgment is affirmed.

Mallano, J.

We concur: Ortega, Acting P.J.
Vogel (Miriam A.), J.

B159191 Farmers Insurance Group of Companies (Certified for Publication)
Truck Insurance Exchange
v.
Workers Compensation Appeals Board

We annul the Board's decision and remand this matter for further consideration based on the opinion expressed herein.

Spencer, P.J.

I concur: Ortega, J.
In concur in the judgment only: Vogel (Miriam A.), J. (Opinion)

December 19, 2002 (Continued)

DIVISION ONE (Continued)

B155476 People (Not for Publication)

$$\mathbf{V}_i$$

Jerome Lashea Pollard

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

B151031 Katnik Corporation, etc. (Not for Publication)

 \mathbf{V}_i

Avenida Andra, L.P., et. al.

The judgment is affirmed. Respondent(s) to recover costs.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

B146979 Benjamin Dilello, et. al. (Not for Publication)

B153414 v.

Katnik Corporation, etc.

The judgment and order are affirmed.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

B157126 Los Angeles County, D.C.S. (Not for Publication)

V.

Marco O.

The orders are affirmed.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

December 19, 2002 (Continued)

DIVISION ONE (Continued)

B154551 People (Not for Publication)
v.
Jarvis L. Porter

The judgment of guilt is affirmed. The sentence is reversed and the trial court is directed to resentence defendant consistent with the prosecutor's exercise of charging discretion.

Spencer, P.J.

I concur: Mallano, J.
I concur in the judgment only: Vogel (Miriam A.), J. (Opinion)

B158165 Los Angeles County, D.C.S. (Not for Publication)
v.
Ruth R.

We affirm the challenged order.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

B146692 Mark Taylor (Not for Publication)
v.
Top of the Line, Inc., etc. al.

We reduce the contract breach of damages to \$92,500. We reverse the verdict for Taylor on the fraud cause of action and the resulting fraud and punitive damages and dismiss that cause of action with prejudice. We remand for the trial court to enter a new judgment reflecting those rulings. As modified, we affirm the contract breach judgment. Defendants are entitled to their costs on appeal.

Ortega, J.

We concur: Spencer, P.J.
Mallano, J.

December 19, 2002 (Continued)

DIVISION ONE (Continued)

B156859 People (Not for Publication)
v.
Glibert Torres

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Mallano, J.

B162406 Heritage Engineering Construction, Inc. (Not for Publication)
v.
Superior Court, Los Angeles County
(State of California et. al., r.p.i.)

Let a peremptory writ issue, commanding respondent superior court to vacate its order, resetting arbitration proceedings, and to issue a new and different order confirming arbitration award, in the Los Angeles Superior Court case No. GS006028, entitled Heritage Engineering Construction Inc. v. State of California et. al. All parties shall bear their own costs.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

DIVISION TWO

Court convened at 9:00 AM

Present: Boren, P.J., Nott, J., Doi Todd, J., Ashmann-Gerst, J. and Jim Guzman, Deputy Clerk.

Each of the following:

B156101 People v. Banks
B158437 People v. Gray
B155446 People v. Hagemann
B158598 Aguilar v. Villagomez
B158263 People v. Hernandez

DIVISION TWO (Continued)

Each of the following (continued):

B156724 People v. Dixon
B157739 Lee v. JBM Mortgage
B154948 People v. Carrasco

Argument waived, cause submitted.

B155798 Inter-Cal Contract Carriers
 v.
 Boyd et al.

Merits:
Argued by Steven Glickman for appellant and by Richard Sievert for respondents. Cause submitted.

B156580 Gil-Brown
 v.
 Khetan, et al.

Merits:
Argued by Lourdes De Armas-Smith for appellants and by Bruce Fields for respondent. Cause submitted.

B157116 Hausey
 v.
 Commission on Teacher Credentialing

Merits:
Argued by Tracey Wei-Costantino for appellant and by Leslie McElroy for respondent. Cause submitted.

B153541 People
 v.
 Luna

Merits:
Argued by Barry Bernstein for appellant and by Jennifer Jadovitz for respondent. Cause submitted.

DIVISION TWO (Continued)

B138910 Aviation Leasing Corporation
v.
Hyatt Corporation, et al.

Merits:
Argued by Bennett Rheingold for appellant and by Patricia Millett for respondents. Cause submitted.

B153839 Laczynska
v.
Zebroski

Merits:
Argued by Barry Orlyn for appellant and by Andrew Krzemuski for respondent. Cause submitted.

B155650 Carrillo
v.
Juarez

Merits:
Argued by Michael L. Murphy for appellants and by Barry Orlyn for respondent. Cause submitted.

Court adjourned

B157624 Janet Madsen (Not for Publication)
v.
Kare Youth League

The judgment is reversed. Appellant(s) to recover costs.

Doi Todd, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

December 19, 2002 (Continued)

DIVISION TWO (Continued)

B145817 Tran Bernard Sawyer, et. al.
v.
Westchester Fire Insurance Company

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION THREE

B162049 Erica S. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County Department of Children and Family Services, r.p.i.)

The petition is denied.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B153302 People (Not for Publication)
v.
Hylland

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B154783 People v. Joseph (Not for Publication)

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

December 19, 2002 (Continued)

DIVISION THREE (Continued)

B155084 People (Not for Publication)
v.
Cintron

With respect to the imposition of three prior conviction enhancements under section 667, subdivision (a)(1) as to count 4, the judgment is reversed. In all other respects, the judgment is affirmed. The clerk of the superior court is directed to prepare and forward to the Department of Corrections an amended abstract of judgment reflecting a total unstayed term of 67 years to life in state prison.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B157679 People (Not for Publication)
v.
Harrell

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B157499 People (Not for Publication)
v.
Melendez

The judgment of conviction is affirmed; the matter is remanded to the trial court with directions to stay the concurrently imposed firearm use enhancements under section 12022.53, subdivisions (b) and (c), to strike or impose the criminal street gang enhancement under section 186.22, subdivision (b)(1), and to delete reference to section 1203.075 from the minute order of the sentencing hearing and the abstract of judgment.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

December 19, 2002 (Continued)

DIVISION THREE (Continued)

Court convened at 2:00 p.m.

Present: Klein, P.J., Croskey, J., Kitching, J. and V. Gray, Deputy Clerk.

B150992 Dromy International Investment Corporation
v.
Channel Gateway, L.P.

Merits:
Argued by Jerry H. Stein for appellant and by Bernard M. Resser for respondents. Cause submitted.

B138627 Sierra Club, et al.
v.
California Coastal Commission, et al.

Merits:
Argued by Frank P. Angel and Lsabeth Rothman for appellants and by Lisa Trankley, deputy attorney general for respondents. Cause submitted.

Court adjourned at 4:19 p.m.

DIVISION FOUR

B156333 Sanchez (Certified for Publication)
v.
Hillerich & Bradsby Co., et al.

The judgment is reversed and the matter is remanded to the trial court. Costs are awarded to appellant.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

December 19, 2002 (Continued)

DIVISION FOUR (Continued)

B154306 Singer (Not for Publication)
v.
Singer

The order refusing to modify or terminate spousal support is affirmed. The order granting attorney fees in the amount of \$35,000 is reversed. The attorney fee matter is remanded for further proceedings consistent with this opinion. Each party is to bear its own costs on appeal.

Curry, J.

We concur: Epstein, Acting P.J.
Hastings, J.

B155266	Cochran Investment Company, Inc. v. Bank of America	(Not for Publication)
---------	---	-----------------------

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Curry, J.

DIVISION FIVE

B155501 Foto-Kem Industries, Inc. (Not for Publication)
v.
Giants Entertainment, Inc.

The order is affirmed. Foto-Kem is awarded its costs on appeal.

Grignon, J.

We concur: Turner, P.J.
 Mosk, J.

DIVISION FIVE (Continued)

B152229 Michael Belisle, et al. (Not for Publication)
v.
Antelope Valley Union High School District et al.

The order granting the defendants' anti-SLAPP motions to strike the complaint is affirmed. Defendants shall recover their costs on appeal.

Mosk, J.

We concur: Grignon, Acting P.J.
Armstrong, J.

B157860 People (Not for Publication)
v.
Kenyon Simuel

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
Armstrong, J.

B154339 People (Not for Publication)
v.
Susan Patterson

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
Armstrong, J.

December 19, 2002 (Continued)

DIVISION FIVE (Continued)

B156052 People (Not for Publication)
v.
Gary Poindexter

The true finding as to the sixth prior prison term is reversed and the allegation and the one-year enhancement are stricken, resulting in true findings as to five prior prison terms, five one-year enhancements, and an aggregate sentence of seven years. As modified, the judgment is affirmed.

Grignon, Acting P.J.

We concur: Armstrong, J.
 Mosk, J.

B161423 Los Angeles County, D.C.S.
v.
Judith S.
In re Bernard W.

Filed order consolidating above captioned appeals.

DIVISION SIX

B157356 Spigener (Not for Publication)
v.
Motel 6 Operating L.P., etc.,

The judgment is affirmed. Costs on appeal are awarded to respondent.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

December 19, 2002 (Continued)

DIVISION SIX (Continued)

B155815 People (Not for Publication)
v.
Mitchell

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

B157952 People (Not for Publication)
v.
Harris

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Coffee, J.

B158501 Michalske (Not for Publication)
v.
D.M.V.

Accordingly, the judgment (order denying writ petition) is reversed and this case is remanded to the trial court with instructions to issue an alternative writ and set the case for a hearing after it reviews and gives due consideration to the complete administrative record. The parties shall bear their own costs on appeal.

Coffee, J.

We concur: Yegan, Acting P.J.
Perren, J.

DIVISION SIX (Continued)

B162019 Child Protective Services (Not for Publication)

v.

San Luis Obispo County Superior Court

San Luis Obispo County Department of Social Services

The petition is denied.

Coffee, J.

We concur: Gilbert, P.J.
 Yegan, J

B157709 Culpepper (Not for Publication)

v.

Gourley

The judgment denying the petition for writ of mandate is affirmed. Costs on appeal are awarded to respondent.

Yegan, J.

We concur: Gilbert, P.J.
 Perren, J.

B156789 People (Not for Publication)

v.

Leon

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Yegan, J.

December 19, 2002 (Continued)

DIVISION SIX (Continued)

B160029 People (Not for Publication)
v.
Castillo

The judgment is affirmed.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

DIVISION SEVEN

B158898 Graves, Dianne (Not for Publication)
v.
Graves, Sr., Daniel

The order is affirmed. The parties shall bear their own costs on appeal.

Perluss, J.

We concur: Johnson, Acting P.J.
Woods, J.

B161752 Brenda M. (Not for Publication)
v.
Superior Court, Los Angeles County
(L.A. County Department of Children & Family

Because substantial evidence supports the juvenile court's order to conduct a hearing pursuant to section 366.26, the petition is denied on the merits.

Perluss, J.

We concur: Johnson, Acting P.J.
Woods, J.

DIVISION SEVEN (Continued)

B156359 Kapsimallis, et al. (Certified for Publication)
 v.
 Allstate Insurance Company

The judgment on the pleadings is reversed. The case is remanded for further proceedings not inconsistent with this opinion. Plaintiffs are to recover their costs on appeal.

Perluss, J.

We concur: Johnson, Acting P.J.
 Woods, J.

B158520 People (Not for Publication)
 v.
 Salvatierra

The judgment is affirmed.

Munoz, J. (Assigned)

We concur: Johnson, Acting P.J.
 Perluss, J.

DIVISION EIGHT

B157123 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Hercilia Q.,
 In re Evelyn B., a Person Coming Under the Juvenile Court Law.

The jurisdictional order finding Evelyn to be person described by subdivision (c) is reversed; the orders finding Evelyn to be person described by subdivisions (b) and (d) are affirmed as expressed in the opinion. The dispositional order removing Evelyn from mother's custody is affirmed.

Rubin, J.

We concur: Cooper, P.J.
 Boland, J.

December 19, 2002 (Continued)

DIVISION EIGHT (Continued)

B155656 Price (Not for Publication)

V.

County Of Los Angeles

The judgment is affirmed. Each side to bear its own costs on appeal.

Rubin, J.

We concur: Cooper, P.J.

Boland, J.

B155636 Lefrak & Associates, P.C. (Not for Publication)

V.

Gray

The judgment is affirmed. Each side to recover its own costs on appeal.

Rubin, J.

We concur: Cooper, P.J.

Boland, J.

B155678 People (Not for Publication)

$$\mathbf{V}_i$$

Soriano

The judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.

Boland, J.